

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

Barbara S. LEWIS

Plaintiff

V.

UNITED STATES of America

Defendant

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Case No. 2:07-cv-18 MHT

Demand for Jury Trial

MOTION FOR SUMMARY JUDGMENT

Plaintiff moves the Court to enter, pursuant to FED. R. CIV. P. 56(c), a summary judgment in Plaintiff's favor for relief demanded in her complaint awarding her a tax refund for 2003 in the amount of \$2,570 plus interest and for grounds of her motion says that there is no genuine issue as to any material fact and that she is entitled to a judgment as a matter of law.

This motion is based upon admissions of Defendant contained in its Answer and the affidavits of Plaintiff Barbara Lewis and counsel James M. Sizemore, Jr.

/s/ James M. Sizemore, Jr.

James M. Sizemore, Jr. (SIZ001)

Attorney for Plaintiffs

792 Commerce Drive, Suite 104

Alexander City, AL 35010

256/409-1985; Fax 256/409-1987

E-mail: jamessizemore@charter.net

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this the 11th day of April, 2007, I served a copy of the foregoing **Motion for Summary Judgment** with the Clerk of the Court using the CM/ECF system that will send notice to the following:

Honorable Gregory L. Jones, Esq.
Trial Attorney, Tax Division
U.S. Department of Justice

/s/ James M. Sizemore, Jr.

James M. Sizemore, Jr., Of Counsel

**UNITED STATES DISTRICT COURT
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Demand for Jury Trial

AFFIDAVIT

Comes now Plaintiff Barbara Lewis, who is known to me and who,
being first duly sworn, deposes and says:

1. My name is Barbara A. Lewis, and I am over 19 years of age and qualified to testify in court to the matters stated herein. I am the same person as “Barbara S. Lewis” shown in the style of this case. My correct middle initial is “A,” the “S” being a typographical error. At all times relevant to this proceeding, I was a resident of Autauga County, Alabama, within the jurisdiction of the United States District Court for the Middle District of Alabama.

2. I make this affidavit in support of a Motion for Summary Judgment filed on my behalf in this case.

3. In 2006, I filed my 2003 income tax return. I attach to this affidavit a copy of the return that I filed and mark it Exhibit 1. Before filing this return, I examined it and its accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and accurately list all amounts and sources of income I received during the tax year. This return consists of five (5) pages numbered 22-25 (inclusive) and 27.

4. This return claimed a refund of \$2,895 that consisted of \$325 withheld from my wages during 2003 and a \$2,570 earned income credit.

5. During 2003, my two (2) daughters lived with me. Their initials are SR and AR. I provided the IRS with their names and tax identifying numbers. They are my natural children who were born in 1993 and 1997 respectively. At the end of 2003, both of them were under 19 years of age.

6. During 2003, both of my children lived with me for all 365 days of the year. Our address was for the entire year was Prattville, AL 36067.

7. By letter dated July 3, 2006, the IRS notified me that it delayed sending me the earned income credit portion of my refund. I attach the IRS letter to this affidavit marked as Exhibit 2 numbered page 20. It had an enclosure that I also attach headed "Supporting Documents For Taxpayers Claiming EIC on the Basis of a Qualifying Child(ren)."

8. The IRS form instructed me as follows:

If the child is your:	Additional Requirement	Then send photocopies of documents for the tax year 2003
Son or daughter	None	IRS will confirm the relationship. Send nothing at this time, however, you may be asked for additional information at a later time. GO TO AGE TEST
Under age 19 at the end of tax year 2003	None	IRS will confirm. Send nothing at this time. You may be asked for additional information at a later time. GO TO RESIDENCY TEST
Related to you as described in the Relationship Test [and]	The child lived with you in the United States for more than half of tax year 2003	To show that the child lived with you for more than half of 2003 send: . . . School records. . . .

9. The IRS sent me another letter dated July 10, 2006, advising that it applied the portion of the refund I requested represented by amounts withheld from my wages in the amount of \$325 to a prior tax year liability. I enclose a copy of that document marked as Exhibit 3 numbered page 19.

10. In response to the IRS request, my counsel sent the IRS the school records for my older daughter, SR, reflecting that she lived with her mother (me) in Prattville, AL during both the 2002/2003 and the 2003/2004 school year. He sent school records for my younger daughter, AR, showing that she lived with her mother (me) during the 2003/2004 school year. She did not enter school until the fall of 2003. I attach copies of the documents provided the IRS to this affidavit as Exhibits 4 and 5 numbered pages 16-17.

11. In a letter dated August 25, 2006, the IRS acknowledged receipt of the information that I provided, but disallowed the entire amount of my earned income credit refund. I attach this document as Exhibit 6 numbered pages 11-14 (including the reverse side of page 13). The portion of this Exhibit numbered page 14 refers on its face to the tax year ending December 31, 2005, though this document came with the other documents relating to the tax year ending December 31, 2003. I believe that the IRS intended to refer to the tax year ending December 31, 2003, in this document also.

12. The IRS sent me Form 5564 dated September 15, 2006, the official Notice of Deficiency advising that, while I owed no additional tax for 2003, my request for refund of the earned income credit was denied. I attach a copy of this document marked as Exhibit 7 numbered page 6 with its attached Forms 4549 and 886-A numbered pages 7-8, both with the reverse as well as the obverse.

13. The Notice of Deficiency arrived with a letter dated September 15, 2006, that I marked as Exhibit 8 numbered page 5, both obverse and reverse. Rather than pursuing this matter in Tax Court, I chose to file this suit in district court.

14. For the tax year 2003, I was an “eligible individual” within the definition contained in 26 U.S.C. §32(c)(1). During 2003, both of my children met the definition of “qualifying child” contained in 26 U.S.C. §32(c)(3).

15. No other person met the requirements to use my children in order to claim an earned income tax credit.

16. For the tax year 2003, I am entitled to a refund of \$2,570 in earned income credit, plus interest.


BARBARA A. LEWIS, Affiant

STATE OF ALABAMA

)


:

AUTAUGA COUNTY

)

Before me, the undersigned notary public, personally appeared Barbara A. Lewis, who is known to me, and who, being first duly sworn, deposes and says that the facts contained in the foregoing affidavit are true and correct.

DONE this 24th day of April, 2007.


Notary Public
My commission expires: 3.15.08

Form 1040A U.S. Individual Income Tax Return (99) 2003 IRS Use Only- Do not write or staple in this space.

Label (See page 19.) **Use the IRS label.** Otherwise, please print or type.

Label HERE

Your first name and initial: **BARBARA A** Last name: **LEWIS**

If a joint return, spouse's first name and initial: Last name:

Home address (number and street). If you have a P.O. box, see page 20. Apt. no.:

City, town or post office, state, and ZIP code. If you have a foreign address, see page 20. **PRATTVILLE AL 36067**

OMB No. 1545-0085

Your social security number: **[REDACTED]**

Spouse's social security number: **[REDACTED]**

▲ Important! ▲ You must enter your SSN(s) above.

Presidential Election Campaign (See page 20.) **Note.** Checking "Yes" will not change your tax or reduce your refund. Do you, or your spouse if filing a joint return, want \$3 to go to this fund? **You** ☐ Yes ☐ No **Spouse** ☐ Yes ☐ No

Filing status Check only one box.

1 ☐ Single

2 ☐ Married filing jointly (even if only one had income)

3 ☐ Married filing separately. Enter spouse's SSN above and full name here. **4** ☒ Head of household (with qualifying person). (See page 20.) If the qualifying person is a child but not your dependent, enter this child's name here. **5** ☐ Qualifying widow(er) with dependent child (See page 21.)

Exemptions

6a ☒ Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a.

b ☐ Spouse

c Dependents:

(1) First name	Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) <input checked="" type="checkbox"/> If qualifying child for child tax credit (see page 23)	No. of boxes checked on 6a and 6b	No. of children on 6c who:
STANISLAW	ROZINSKI	[REDACTED]	DAUGHTER	<input checked="" type="checkbox"/>	1	2
ANNA	ROZINSKI	[REDACTED]	DAUGHTER	<input checked="" type="checkbox"/>		
				<input type="checkbox"/>		
				<input type="checkbox"/>		
				<input type="checkbox"/>		

If more than six dependents, see page 21.

d Total number of exemptions claimed. **Add numbers on lines above** **3**

Income

Attach Form(s) W-2 here. Also attach Form(s) 1099-R if tax was withheld.

7 Wages, salaries, tips, etc. Attach Form(s) W-2. **7** **6,449**

8a Taxable interest. Attach Schedule 1 if required. **8a**

b Tax-exempt interest. Do not include on line 8a. **8b**

9a Ordinary dividends. Attach Schedule 1 if required. **9a**

b Qualified dividends (see page 25). **9b**

10a Capital gain distributions (see page 25). **10a**

b Post-May 5 capital gain distributions (see page 25). **10b**

11a IRA distributions. **11a** **11b** Taxable amount (see page 25). **11b**

12a Pensions and annuities. **12a** **12b** Taxable amount (see page 26). **12b**

13 Unemployment compensation and Alaska Permanent Fund dividends. **13**

14a Social security benefits. **14a** **14b** Taxable amount (see page 28). **14b**

15 Add lines 7 through 14b (far right column). This is your total income. **15** **6,449**

Adjusted gross income

16 Educator expenses (see page 28). **16**

17 IRA deduction (see page 28). **17**

18 Student loan interest deduction (see page 31). **18**

19 Tuition and fees deduction (see page 31). **19**

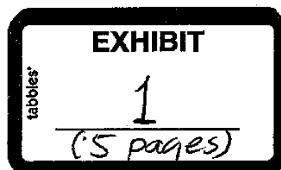
20 Add lines 16 through 19. These are your total adjustments. **20**

21 Subtract line 20 from line 15. This is your adjusted gross income. **21** **6,449**

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see page 57.

Cat. No. 11327A

Form 1040A (2003)



Form 1040A (2003)

Page 2

Tax, credits, and payments	22 Enter the amount from line 21 (adjusted gross income).	22	6,449
Standard Deduction for: • People who checked any box on line 25a or 23b or who can be claimed as a dependent, see page 32. • All others: Single or Married filing separately, \$4,750 Married filing jointly or Qualifying widow(er), \$9,500 Head of household, \$7,000	23a Check <input type="checkbox"/> You were born before January 2, 1939, <input type="checkbox"/> Blind <input type="checkbox"/> Total boxes checked <input type="checkbox"/> 23a		
	b If you are married filing separately and your spouse itemizes deductions, see page 32 and check here <input type="checkbox"/> 23b		
	24 Enter your standard deduction (see left margin).	24	7,000
	25 Subtract line 24 from line 22. If line 24 is more than line 22, enter -0-.	25	0
	26 Multiply \$3,050 by the total number of exemptions claimed on line 6d.	26	9,150
	27 Subtract line 26 from line 25. If line 26 is more than line 25, enter -0-.	27	0
	28 Tax , including any alternative minimum tax (see page 33).	28	
	29 Credit for child and dependent care expenses. Attach Schedule 2.	29	
	30 Credit for the elderly or the disabled. Attach Schedule 3.	30	
	31 Education credits. Attach Form 8863.	31	
32 Retirement savings contributions credit. Attach Form 8880.	32		
33 Child tax credit (see page 37).	33		
34 Adoption credit. Attach Form 8839.	34		
35 Add lines 29 through 34. These are your total credits .	35		
36 Subtract line 35 from line 28. If line 35 is more than line 28, enter -0-.	36		
37 Advance earned income credit payments from Form(s) W-2.	37		
38 Add lines 36 and 37. This is your total tax .	38		
39 Federal income tax withheld from Forms W-2 and 1099.	39	325	
40 2003 estimated tax payments and amount applied from 2002 return.	40	0	
41 Earned income credit (EIC) .	41	2,570	
42 Additional child tax credit. Attach Form 8812.	42		
43 Add lines 39 through 42. These are your total payments .	43	2,895	
Refund	44 If line 43 is more than line 38, subtract line 38 from line 43. This is the amount you overpaid .	44	2,895
Direct deposit? See page 50 and fill in 45b, 45c, and 45d.	45a Amount of line 44 you want refunded to you .	45a	2,895
	b Routing number <input type="text"/> c Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings		
	d Account number <input type="text"/>		
	46 Amount of line 44 you want applied to your 2004 estimated tax .	46	
Amount you owe	47 Amount you owe . Subtract line 43 from line 38. For details on how to pay, see page 51.	47	
	48 Estimated tax penalty (see page 52).	48	
Third party designee	Do you want to allow another person to discuss this return with the IRS (see page 52)? <input checked="" type="checkbox"/> Yes. Complete the following. <input type="checkbox"/> No		
	Designee's name James M. Sizemore, Jr.	Phone no. (256) 409-1985	Personal identification number (PIN) <input type="text"/>
Sign here	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and accurately list all amounts and sources of income I received during the tax year. Declaration of preparer (other than the taxpayer) is based on all information of which the preparer has any knowledge.		
Joint return? See page 20. Keep a copy for your records.	Your signature Barbara A. Lewis	Date 5-30-06	Your occupation Server
	Spouse's signature. If a joint return, both must sign.	Date	Spouse's occupation
			Daytime phone number (334) 514-8510
Paid preparer's use only	Preparer's signature James M. Sizemore, Jr.	Date 5-30-06	Check if self-employed <input checked="" type="checkbox"/>
	Firm's name (or yours if self-employed), address, and ZIP code James M. Sizemore, Jr.	EIN 00-1400000	Preparer's SSN or PTIN
	792 Commerce Drive, Alexander City, AL 35010	Phone no. (256) 409-1985	

Form 1040A (2003)

42196699602003000000 *(TY2003)

PAGE 0001 OF 0002

DOCUMENT TYPE: W-2
PAYEE ENTITY DATA:
BARBARA A LEWIS

STATE: ** ZIP: 00000-0000

ACCOUNT NUMBER: N/A
PAYER ENTITY DATA: 630654875
KIDDIE COLLEGE SCHOOLR INC

RETIREMENT PLAN IND: UNANSWERED

** 00000

STATUTORY EMPLOYEE IND: NO

TYPE OF EMPLOYMENT: ALL OTHERS
FED TX WH.....\$0
WAGES.....\$2,443+
SO SEC WH.....\$151+
SO SEC WAG.....\$2,443+
MEDCARE WH.....\$35+
MEDCARE WC.....\$2,443+

***** TAXPAYER COPY *****

42196699602003000000

*(TY2003)

PAGE 0002 OF 0002

DOCUMENT TYPE: W-2
PAYEE ENTITY DATA:
BARBARA LEWIS

STATE: ** ZIP: 00000-0000

ACCOUNT NUMBER: N/A
PAYER ENTITY DATA: 630918354
CAMELLIA BAPTIST WEM

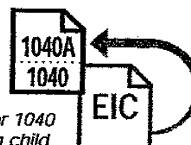
RETIREMENT PLAN IND: UNANSWERED

** 00000

STATUTORY EMPLOYEE IND: NO

TYPE OF EMPLOYMENT: ALL OTHERS
WAGES.....\$4,006+
FED TX WH.....\$325+
SO SEC WH.....\$248+
SO SEC WAG.....\$4,006+
MEDCARE WH.....\$58+
MEDCARE WC.....\$4,006+

***** TAXPAYER COPY *****

SCHEDULE EIC
(Form 1040A or 1040)Department of the Treasury
Internal Revenue Service (99)**Earned Income Credit**
Qualifying Child InformationComplete and attach to Form 1040A or 1040
only if you have a qualifying child.

OMB No. 1545-0074

2003Attachment
Sequence No. **43**

Name(s) shown on return

Barbara A. Lewis

Your social security number

Before you begin: See the instructions for Form 1040A, line 41, or Form 1040, line 63, to make sure that
(a) you can take the EIC and (b) you have a qualifying child.

- If you take the EIC even though you are not eligible, you may not be allowed to take the credit for up to 10 years. See back of schedule for details.
- It will take us longer to process your return and issue your refund if you do not fill in all lines that apply for each qualifying child.
- Be sure the child's name on line 1 and social security number (SSN) on line 2a agree with the child's social security card. Otherwise, at the time we process your return, we may reduce or disallow your EIC. If the name or SSN on the child's social security card is not correct, call the Social Security Administration at 1-800-772-1213.

Qualifying Child Information**Child 1****Child 2**

	First name	Last name	First name	Last name
1 Child's name If you have more than two qualifying children, you only have to list two to get the maximum credit.	Stephanie	Reyes	Alexis	Reyes
2a Child's SSN The child must have an SSN as defined on page 43 of the Form 1040A instructions or page 47 of the Form 1040 instructions unless the child was born and died in 2003. If your child was born and died in 2003 and did not have an SSN, enter "Died" on this line and attach a copy of the child's birth certificate.	123-45-6789		123-45-6789	
b Child's year of birth	Year 1 9 9 3 If born after 1984, skip lines 3a and 3b; go to line 4.		Year 1 9 9 7 If born after 1984, skip lines 3a and 3b; go to line 4.	
3 If the child was born before 1985—				
a Was the child under age 24 at the end of 2003 and a student?	<input type="checkbox"/> Yes. Go to line 4. <input type="checkbox"/> No. Continue		<input type="checkbox"/> Yes. Go to line 4. <input type="checkbox"/> No. Continue	
b Was the child permanently and totally disabled during any part of 2003?	<input type="checkbox"/> Yes. Continue <input type="checkbox"/> No. The child is not a qualifying child.		<input type="checkbox"/> Yes. Continue <input type="checkbox"/> No. The child is not a qualifying child.	
4 Child's relationship to you (for example, son, daughter, grandchild, niece, nephew, foster child, etc.)	daughter		daughter	
5 Number of months child lived with you in the United States during 2003 • If the child lived with you for more than half of 2003 but less than 7 months, enter "7". • If the child was born or died in 2003 and your home was the child's home for the entire time he or she was alive during 2003, enter "12".	12 months Do not enter more than 12 months.		12 months Do not enter more than 12 months.	



You may also be able to take the additional child tax credit if your child (a) was under age 17 at the end of 2003, (b) is claimed as your dependent on line 6c of Form 1040A or Form 1040, and (c) is a U.S. citizen or resident alien. For more details, see the instructions for line 42 of Form 1040A or line 65 of Form 1040.

Form 8862 (Rev. December 2005) Department of the Treasury Internal Revenue Service	Information To Claim Earned Income Credit After Disallowance	OMB No. 1545-0074 Attachment Sequence No. 43A
▶ Attach to your tax return. ▶ See instructions on back.		
Name(s) shown on return Barbara A. Lewis		Your social security number 44-00-10000

Before you begin: ✓ See your tax return instructions or **Pub. 596, Earned Income Credit (EIC)**, for the year for which you are filing this form to make sure you can take the earned income credit (EIC) and to find out who is a qualifying child.

✓ If you have a qualifying child, complete **Schedule EIC** before you fill in this form.

✓ **Do not** file this form if you are taking the EIC without a qualifying child and the only reason your EIC was reduced or disallowed in the earlier year was because it was determined that a child listed on **Schedule EIC** was not your qualifying child.

Part I All Filers

- 1 Enter the year for which you are filing this form (for example, 2005) ▶ **2003**
- 2 If the **only** reason your EIC was reduced or disallowed in the earlier year was because you incorrectly reported your earned income or investment income, check "Yes." Otherwise, check "No" ▶ ☐ Yes ☒ No
Caution. If you checked "Yes," **stop. Do not** fill in the rest of this form. But you must attach it to your tax return to take the EIC. If you checked "No," continue.
- 3 Could you (or your spouse if filing jointly) be claimed as a qualifying child of another person for the year shown on line 1? ▶ ☐ Yes ☒ No
Caution. If you checked "Yes," **stop. You cannot** take the EIC. If you checked "No," continue.

Part II Filers Without a Qualifying Child

- 4 Enter the **number of days** during the year shown on line 1 that you lived in the United States ▶ **365**
Caution. If you entered less than **183** (184 if the year on line 1 is 2004), **stop. You cannot** take the EIC. See the instructions.
- 5 If married filing a joint return, enter the **number of days** during the year shown on line 1 that your spouse lived in the United States ▶ ☐☐☐
Caution. If you entered less than **183** (184 if the year on line 1 is 2004), **stop. You cannot** take the EIC. See the instructions.

Part III Filers With a Qualifying Child or Children

Note. Child 1 and Child 2 are the same children you listed as Child 1 and Child 2 on **Schedule EIC** for the year shown on line 1 above.

- 6 Enter the **number of days** each child lived with you in the United States during the year shown on line 1 above:
 - a Child 1 ▶ **365** b Child 2 ▶ **365****Caution.** If you entered less than **183** for either child (184 if the year on line 1 is 2004), you cannot take the EIC based on that child, unless the special rule for a child who was born or died during the year shown on line 1 applies. See the instructions.
- 7 If your child was born or died during the year shown on line 1, enter the month and day the child was born and/or died. Otherwise, skip this line.
 - a Child 1 ▶ (1) Month and day of birth (MM/DD) ▶ ☐☐☐☐ (2) Month and day of death (MM/DD) ▶ ☐☐☐☐
 - b Child 2 ▶ (1) Month and day of birth (MM/DD) ▶ ☐☐☐☐ (2) Month and day of death (MM/DD) ▶ ☐☐☐☐
- 8 Enter the address where you and the child lived together during the year shown on line 1. If you lived with the child at more than one address during the year, attach a list of the addresses where you lived:
 - a Child 1 ▶ Number and street **Prattville, AL 36067**
 City or town, state, and ZIP code
 - b Child 2 ▶ If same as shown for child 1, check this box. ▶ ☒ Otherwise, enter below:
 Number and street _____
 City or town, state, and ZIP code _____
- 9 Did any other person (except your spouse, if filing jointly, and your dependents under age 19) live with child 1 or child 2 for more than half the year shown on line 1? ▶ ☐ Yes ☒ No
 If "Yes," enter that person's name and relationship to the child below. If more than one other person lived with the child for more than half the year, attach a list of each person's name and relationship to the child:
 - a Other person living with child 1: Name _____
 Relationship to child 1 _____
 - b Other person living with child 2: If same as shown for child 1, check this box. ▶ ☐ Otherwise, enter below:
 Name _____
 Relationship to child 2 _____

Caution. The IRS may ask you to provide additional information to verify your eligibility to claim the EIC.

35010

IRS USE ONLY

WI

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Department of the Treasury
Internal Revenue Service
Exam Operations Stop 4103 AUSC
P.O. Box 2986
Austin, TX 78768-2986

For assistance, call:
1-866-897-0177

Notice Number: CP75

Date: July 3, 2006

001181.253932.0010.001 2 MB 0.563 1680



Taxpayer Identification Number:

~~421-96-6990~~

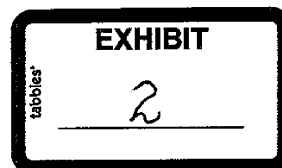
Tax Form: 1040A

Tax Year: December 31, 2003



BARBARA A LEWIS
%JAMES M SIZEMORE JR
792 COMMERCE DR STE 104
ALEXANDER CITY AL 35010-4213

101181



We're Reviewing Your Tax Return And Delaying Part of Your Refund

Why We're Reviewing Your Tax Return

We're reviewing your tax return. This review is why we've delayed sending you the earned income credit (EIC) part of your refund. The information below explains why we're reviewing your return and the information you need to send us so we can make the right decision about your taxes.

EIC Recertification - You must show you qualify for EIC because we denied your EIC during a prior year examination. You need to send us information to show you've met **three tests** to claim a qualifying child. The enclosed *Form 886-H-EIC, Supporting Documents for Taxpayers Claiming EIC*, explains the tests.

What You Need To Do Now

To get the EIC you deserve, please send us the above information **within 30 days** from this letter's date.

You can send us the information by mail, in the enclosed envelope, or by fax to 1-512-460-0146 (not toll-free).

Fill in and send us the stub on the last page of this letter. We'll use the stub to make sure your information gets to the right person and to make sure we can call you if we have any questions.

If you can't get all your information to us in time, call us at the above number to discuss what you can do.

What We'll Do Once We Hear from You

We'll review the information you send us. If your information shows your return was correct, we won't make any changes to your tax return and we'll send you the EIC part of your refund. You won't need to do anything else.

If your information doesn't show your return was correct, we'll send you a report of changes we plan to make to your tax return and explain the tax you will owe. We'll also explain your right to appeal if you disagree.

Please allow us at least 30 days to review your information. After our review, we'll let you know by letter what we're going to do and explain your appeal rights, if we propose changes.

Any EIC refund you claimed will be delayed while we review your information.

What Happens If You Don't Reply

If we don't hear from you **within 30 days**, you will not receive the EIC part of your refund. We'll send you a letter and a report disallowing the tax return items we've questioned. We'll explain how you can appeal if you disagree.

Supporting Documents for Taxpayers Claiming EIC on the Basis of a Qualifying Child(ren)

For Tax Year 2003, to be your qualifying child, the child must meet the following three tests: Relationship, Age, and Residency. If you don't have a child who meets the test for a qualifying child, you may still qualify for a reduced Earned Income Credit (see reverse side). You do not need to claim head of household filing status or a dependent to qualify for the earned income credit.

RELATIONSHIP TEST		
<p>If the child is your:</p> <p>Son or daughter (including an adopted child)</p> <p>Grandchild or great grandchild</p> <p>Stepson, stepdaughter, or a descendant of your stepson or stepdaughter</p> <p>Child pending adoption</p> <p>Brother, sister, stepbrother or stepsister, or a descendant of any of them (such as a niece or nephew)</p> <p>Eligible foster child (placed with you by an authorized placement agency)</p>	<p>Additional Requirement:</p> <p>None</p> <p>None</p> <p>None</p> <p>None</p> <p>None</p> <p>You cared for that child as you would your own</p> <p>You cared for that child as you would your own</p>	<p>Then send photocopies of documents for the tax year 2003:</p> <p>IRS will confirm the relationship. Send nothing at this time, however, you may be asked for additional information at a later date. GO TO AGE TEST.</p> <p>Birth certificates that verify your relationship to the child</p> <p>Birth certificates and marriage certificates that verify your relationship to the child</p> <p>Letter from an authorized adoption agency</p> <p>Birth certificates that verify your relationship to the child</p> <p>If a step relationship also provide marriage certificates</p> <p>Letter from the authorized placement agency or applicable court documents</p>
AGE TEST		
<p>If the child is:</p> <p>Under age 19 at the end of tax year 2003</p> <p>Under age 24 at the end of tax year 2003</p> <p>Permanently and totally disabled at any time during tax year 2003</p>	<p>Additional Requirement:</p> <p>None</p> <p>Child was a full-time student for at least 5 months of the tax year</p> <p>Any age</p>	<p>Then send photocopies of documents for the tax year 2003:</p> <p>IRS will confirm. Send nothing at this time. You may be asked for additional information at a later date. GO TO RESIDENCY TEST.</p> <p>Official school records showing that the child was a full-time student for at least 5 months of the tax year and the dates of attendance. The months need not be consecutive.</p> <p>Letter from child's doctor, other healthcare provider, or any other social service program or agency verifying the child is permanently and totally disabled</p>
RESIDENCY TEST		
<p>If the child is:</p> <p>Related to you as described in the Relationship Test.</p>	<p>And:</p> <p>The child lived with you in the United States for more than half of tax year 2003</p>	<p>To show that the child lived with you for more than half of 2003 send:</p> <p>One of the following: school records, medical records, daycare records, or social services records that show names, common address and dates</p> <p>Or</p> <p>One letter on official letterhead from: the school, your medical provider, your clergy or other similar organizations that show names, common address and dates</p> <p>** If you send a letter from a relative who provides your daycare, you MUST send at least one additional letter from the list above</p> <p>*** You may need to send more than one document to show that the child lived with you for more than half the year</p>

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IRS USE ONLY

WI

07209-154-83206-6

200626 CP:

4 0

For assistance, call:

1-800-829-0922



Department of the Treasury
Internal Revenue Service
Atlanta, GA 39901-0025

Notice Number: CP49

Date: July 10, 2006

Taxpayer Identification Number:

210401.255424.0775.019 1 AT 0.308 630

Tax Form: 1040A

Tax Year: December 31, 2003



BARBARA A LEWIS
%JAMES M SIZEMORE JR
792 COMMERCE DR STE 104
ALEXANDER CITY AL 35010-4213



310401

Overpaid Tax Applied to Other Taxes You Owe

We applied \$325.00 of the overpaid tax on your 2003 tax return to the unpaid balance of other federal taxes which our records show you owe.

You may still be due a refund if we applied only part of your overpayment to other taxes. You also may be due a refund if you recently made a payment against the other taxes that we had not credited when we applied your overpayment. In either case, you will receive a check for any refund due you as long as the amount is greater than one dollar. You must request a refund of less than one dollar. If you have any questions, please call us at the number listed above.

The figures below show our calculation:

How We Applied Your Overpayment

Amount of Overpaid Tax on Your Return	\$2,895.00
Amount of Interest You Earned on Overpayment	\$.00
Total Amount Due You	\$2,895.00
Total Amount Applied	\$325.00
Amount You Will Receive as a Refund (any interest due you will be added)	\$2,570.00

Where We Applied Your Overpayment

Form(s)	Tax Period(s)	Amount(s) Applied	Balance Remaining
1040	Dec. 31, 1995	\$325.00	\$6,606.53

The following information may pertain to you if you are currently married or were previously married. Did we use your refund to pay for income taxes that you and a former (or current) spouse owe? If you file a claim, you may be eligible to receive relief from having to pay your former (or current) spouse's income tax debt. A successful claim for relief could change the tax you have to pay. You may not owe anything at all. You could receive your refund or other payments back.

ROGERS, AALEIGH

tabbies

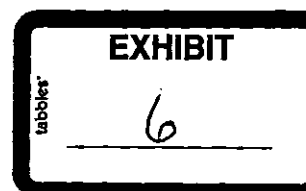
EXHIBIT

5

Department of the Treasury
Internal Revenue Service
PO BOX 2986
STOP 4103 AUSE
AUSTIN TX 78767

BARBARA A LEWIS
[REDACTED]
PRATTVILLE AL 36067-3941

Letter Date:
August 25, 2006
Taxpayer Identification Number:
[REDACTED]
Tax Year Ended:
December 31, 2003
Person to Contact:
Homer Marshall
PC 0694 EGC 5111
Contact Identification Number:
18-02613
Contact Telephone Number:
1/877-834-6302 ex 7385
Contact Fax Number:
512-460-0146
Contact Hours:
6:30 AM 2:30 PM



Dear Taxpayer:

Thank you for your response dated July 21, 2006 about your 2003 income tax return.

Based upon the information you have provided and our review of your return, we have prepared a Proposed Report of Adjustment that shows the amount of the adjustments that we propose to make on items on your return. The report also shows the amounts of your tax liability and the amount of tax that is still due from you or to be refunded to you if you agree with the proposed adjustments.

The tax technician above is the contact person for your examination. Please send all information and documents to the person to contact at the above address. Whenever you write to us, please remember to include your area code and telephone number, along with a copy of this letter. You may want to make a copy of this letter and any information you send us for your records.

If you agree with the proposed changes, please sign, date, and return the report, which shows a refund of \$.00. We will send the refund to you if you owe no other taxes and have no other legal obligations that we are required to collect. We will mail the refund within eight weeks after we receive the signed report.

If you do not agree with any of the proposed adjustments, please send us additional information about the items on which you disagree. It is important that you mail your response, including any supporting information, to the above address within 15 days.

If you disagree with our findings after we have reviewed your information, you may appeal the proposed charges with the Appeals Office, as set forth in the enclosed Publication 3498-A, *The Examination Process (Examination by Mail)*.

(continued next page)

Letter 692(SC/CG) (Rev. 2-2005)
Catalog Number 27194T

Form 4549 (Rev. March 2005)	Department of the Treasury-Internal Revenue Service Income Tax Examination Changes		Page <u>1</u> of <u>2</u>
Name and Address of Taxpayer BARBARA A LEWIS PRATTVILLE AL 36067-3941		Taxpayer Identification Number <div style="background-color: black; width: 100px; height: 1em; margin: 2px 0;"></div>	Return Form No.: 1040A
Person with whom examination changes were discussed.		Name and Title:	

	Period End 12/31/2003	Period End	Period End
1. Adjustments to Income			
a.			
b.			
c.			
d.			
e.			
f.			
g.			
h.			
i.			
j.			
k.			
l.			
m.			
n.			
o.			
p.			
2. Total Adjustments	0.00		
3. Taxable Income Per Return or as Previously Adjusted	(9,701.00)		
4. Corrected Taxable Income	(9,701.00)		
Tax Method	TAX TABLE		
Filing Status	Head of Household		
5. Tax	0.00		
6. Additional Taxes / Alternative Minimum Tax			
7. Corrected Tax Liability	0.00		
8. Loss			
Credits			
a.			
b.			
c.			
d.			
9. Balance (Line 7 less Lines 8a through 8d)	0.00		
10. Plus			
Other			
Taxes			
a.			
b.			
c.			
d.			
11. Total Corrected Tax Liability (Line 9 plus Lines 10a through 10d)	0.00		
12. Total Tax Shown on Return or as Previously Adjusted	0.00		
13. Adjustments to:			
a.			
b. Earned Income Credit	(2,570.00)		
c.			
14. Deficiency-Increase in Tax or (Overassessment-Decrease in Tax) (Line 11 less Line 12 adjusted by Lines 13a plus 13b)	2,570.00		
15. Adjustments to Prepayment Credits - Increase (Decrease)	2,570.00		
16. Balance Due or (Overpayment) - (Line 14 adjusted by Line 15) (Excluding interest and penalties)	0.00		

The Internal Revenue Service has agreements with state tax agencies under which information about federal tax, including increases or decreases, is exchanged with the states. If this change affects the amount of your state income tax, you should amend your state return by filing the necessary forms.

You may be subject to backup withholding if you underreport your interest, dividend, or patronage dividend income you earned and do not pay the required tax. The IRS may order backup withholding (withholding of a percentage of your dividend and/or interest income) if the tax remains unpaid after it has been assessed and four notices have been issued to you over a 120-day period.

Name of Taxpayer: BARBARA A LEWIS
 Identification Number: [REDACTED]

08/17/2006
 Total 7.20.00

2003 - Taxable Earned Income Worksheet for Child Tax Credit/8812

1. Enter the amount from Form 1040, line 7	1.	6.449.00
Next , if you are filing Schedule C, C-EZ, F, or SE, or you received a Schedule K-1 (Form 1065 or Form 1065-B), go to line 2a. Otherwise, skip lines 2a through 2e and go to line 3.		
2. a. Enter any statutory employee income reported on line 1 of Schedule C or C-EZ	2a.	0.00
b. Enter any net profit or (loss) from Schedule C, line 31; Schedule C-EZ, line 3; Schedule K-1 (Form 1065), line 15a (other than farming); and Schedule K-1 (Form 1065-B), box 9. Reduce this amount by any unreimbursed nonfarm partnership expenses you deducted on Schedule E. Do not include any statutory employee income or any other amounts exempt from self-employment tax. Options and commodities dealers must add any gain or subtract any loss (in the normal course of dealing in or trading section 1256 contracts) from section 1256 contracts or related property	2b.	0.00
c. Enter any net farm profit or (loss) from Schedule F, line 36, and from farm partnerships, Schedule K-1 (Form 1065), line 15a. Reduce this amount by any unreimbursed farm partnership expenses you deducted on Schedule E. Do not include any amounts exempt from self-employment tax	2c.	0.00
d. If you used the farm optional method to figure net earnings from self-employment, enter the amount from Schedule SE, Section B, line 15. Otherwise, skip this line and enter on line 2e the amount from line 2c	2d.	
e. If line 2c is a profit, enter the smaller of line 2c or line 2d. If line 2c is a (loss), enter the (loss) from line 2c.	2e.	0.00
3. Add lines 1, 2a, 2b, and 2e. If zero or less, stop . Do not complete the rest of this worksheet. Instead, enter -0- on line 2 of the <i>Line 13 Worksheet</i> on page 6 or line 4 of Form 8812, whichever applies	3.	6.449.00
4. Enter any amount included on line 1 that is:		
a. A scholarship or fellowship grant not reported on Form W-2	4a.	0.00
b. For work done while an inmate in a penal institution (enter "PRI" and this amount on the dotted line next to line 7 of Form 1040)	4b.	0.00
c. A pension or annuity from a nonqualified deferred compensation plan or a nongovernmental section 457 plan (enter "DFC" and this amount on the dotted line next to line 7 of Form 1040). This amount may be shown in box 11 of your Form W-2. If you received such an amount but box 11 is blank, contact your employer for the amount received as a pension or annuity.	4c.	0.00
5. a. Enter any amount included on line 3 that is also included on Form 2555, line 41, or Form 2555-EZ, line 18. Do not include any amount that is also included on line 4a, 4b, or 4c above.	5a.	0.00
b. Enter the amount, if any, from Form 2555, line 42, that is also deducted on Schedule C, C-EZ, or F, or included on Schedule E in partnership net income or (loss)	5b.	0.00
c. Subtract line 5b from line 5a	5c.	0.00
6. Enter the amount from Form 1040, line 28	6.	0.00
7. Add lines 4a through 4c, 5c, and 6	7.	0.00
8. Subtract line 7 from line 3	8.	6.449.00

• If you were sent here from the *Line 13 Worksheet* on page 6, enter this amount on line 2 of that worksheet.

• If you were sent here from Form 8812, enter this amount on line 4 of that form.

Form 886-A (Rev. January 1994)886-A	EXPLANATION OF ITEMS		Schedule number or exhibit
Name of Taxpayer BARBARA A LEWIS	Taxpayer Identification Number [REDACTED]	Year/Period Ended 2003	

Earned Income Credit

Tax Period	Per Return	Per Exam	Adjustment
2003	\$2,570.00	\$0.00	(\$2,570.00)

Your qualifying child is on another taxpayer tax return. If you and someone else have the same qualifying child, only the person with the higher adjusted gross income may be able to claim the credit.

Since you did not establish that you were entitled to the earned income credit, we disallowed it.

Frozen Refund

Tax Period	Per Return	Per Exam	Adjustment
2003	(\$2,570.00)	\$0.00	\$2,570.00

A portion or all of your overpayment is being withheld pending the outcome of this examination. If at the conclusion of the examination a deficiency is determined the overpayment will be applied to the tax deficiency. If the overpayment is less than the deficiency, you will be sent a separate bill for any additional amount of tax owed. You may owe interest and/or penalties on the total amount of the tax deficiency. If there is any remaining overpayment it will be refunded if there are no other taxes that we are required to collect or other obligations owed. In order for your account to be properly adjusted, please sign and return the enclosed proposal.

Form 886-A

Explanation of Items

Name of Taxpayer:

BARBARA A. LEWIS

SSN:

Tax Year Ended:

December 31, 2005

We have considered your July 21, 2006 reply. The documentation you provided does not verify that you meet the requirements for the earned income credit as shown on your return. Please read the explanation below concerning the items we have disallowed.

Earned Income Credit

The earned income credit is based on three tests: relationship, residency, and age for the qualifying person.

Residency Test

Since we cannot determine that the children lived with you for the required period of time for the tax year in question, we have disallowed the earned income credit.

Age Test

The age test has been met.

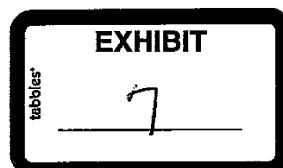
Sometimes a child meets the rules to be a qualifying child of more than one person. If you and someone else have the same qualifying child, only the person with the higher adjusted gross income may be able to claim the credit.

We are disallowing your earned income credit.

If you would like us to reconsider these proposed adjustments, please provide the information requested on the attached Form 886-A.

If you agree with the proposed changes, please sign, date and return the report.

FORM 5564 (Rev. June 1992)		Department of the Treasury — Internal Revenue Service NOTICE OF DEFICIENCY - WAIVER		Symbols Austin STOP 4117	
Name and Address of Taxpayer(s) BARBARA A LEWIS %JAMES M SIZEMORE JR 792 COMMERCE DR STE 104 ALEXANDER CITY, AL 35010-4213524				September 15, 2006	
Kind of Tax INDIVIDUAL INCOME		<input checked="" type="checkbox"/> Copy to Authorized Representative JAMES M SIZEMORE JR			
Tax Year Ended DECEMBER 31, 2003		DEFICIENCY			
		Increase in Tax		\$2,570.00	
				Penalties	



THE AMOUNT SHOWN AS DEFICIENCY MAY NOT BE BILLED YOU, SINCE ALL OR A PORTION OF THE REFUND DUE YOU HAS BEEN HELD TO OFFSET ALL OR A PORTION OF THE AMOUNT OF THE DEFICIENCY. THE AMOUNT THAT WILL BE BILLED YOU, IF ANY, IS SHOWN ON THE ATTACHED EXAMINATION REPORT.

I consent to the immediate assessment and collection of the deficiencies (increase in tax and penalties) shown above, plus any interest. Also, I waive the requirement under section 6532 (a) (1) of the Internal Revenue Code that a notice of claim disallowance be sent to me by certified mail for any overpayment shown on the attached report.

I understand that the filing of this waiver is irrevocable and it will begin the 2-year period for filing suit for refund of the claims disallowed as if the notice of disallowance had been sent by certified or registered mail.

Signature			Date
			Date
	By	Title	Date

Note: If you consent to the assessment of the deficiencies shown in this waiver, please sign and return this form to limit the interest charge and expedite our bill to you. Please do not sign and return any prior notices you may have received. Your consent signature is required on this waiver, even if fully paid.

Your consent will not prevent you from filing a claim for refund (after you have paid the tax) if you later believe you are so entitled; nor prevent us from later determining, if necessary, that you owe additional tax; nor extend the time provided by law for such action.

If you later file a claim and the Service disallows it, you may file suit for refund in a District Court or in the United States Claims Court, but you may not file a petition with the United States Tax Court.

Who Must Sign: If you filed jointly, both you and your spouse must sign. Your attorney or agent may sign this waiver provided that action is specifically authorized by a power of attorney which, if not previously filed, must accompany this form.

If this waiver is signed by a person acting in a fiduciary capacity (for example, an executor, administrator, or a trustee), Form 56, Notice Concerning Fiduciary Relationship, should, unless previously filed, accompany this form.

If you agree, please sign and return this form; keep one copy for your records.

FORM 5564 (Rev. 6-92)

Form 4549 (Rev. March 2005)	Department of the Treasury-Internal Revenue Service Income Tax Examination Changes		Page <u>2</u> of <u>2</u>
Name of Taxpayer BARBARA A LEWIS	Taxpayer Identification Number [REDACTED]		Return Form No.: 1040A
17. Penalties/ Code Sections	Period End 12/31/2003	Period End	Period End
a.			
b.			
c.			
d.			
e.			
f.			
g.			
h.			
i.			
j.			
k.			
l.			
m.			
n.			
18. Total Penalties			
Underreporter attributable to negligence: (1981-1987) A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed.			
Underreporter attributable to fraud: (1981-1987) A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed.			
Underreporter attributable to Tax Motivated Transactions (TMT). The interest will accrue and be assessed at 120% of the underpayment rate in accordance with IRC §6621(c)	0.00		
19. Summary of Taxes, Penalties and Interest:			
a. Balance due or (Overpayment) Taxes - (Line 16, Page 1)	0.00		
b. Penalties (Line 18) - computed to 08/27/2006			
c. Interest (IRC § 6601) - computed to 09/26/2006	0.00		
d. TMT Interest - computed to 09/26/2006 (on TMT underpayment)	0.00		
e. Amount due or (refund) - (sum of Lines a, b, c and d)	0.00		

Other information:

Examiner's Signature:	Employee ID:	Office:	Date:
Home: Marshall	18-02613	CSB	08/27/2006

Consent to Assessment and Collection- I do not wish to exercise my appeal rights with the Internal Revenue Service or to contest in the United States Tax Court the findings in this report. Therefore, I give my consent to the immediate assessment and collection of any increase in tax and penalties, and accept any decrease in tax and penalties shown above, plus additional interest as provided by law. It is understood that this report is subject to acceptance by the Area Director, Area Manager, Specialty Tax Program Chief, or Director of Field Operations.


PLEASE NOTE: If a joint return was filed, BOTH taxpayers must sign

Signature of Taxpayer	Date:	Signature of Taxpayer	Date:
By:		Title:	Date:

Form 4549 (Rev. March 2005)	Department of the Treasury-Internal Revenue Service Income Tax Examination Changes		Page <u>1</u> of <u>2</u>
Name and Address of Taxpayer BARBARA A LEWIS [REDACTED] PRATTVILLE AL 36067-3941		Taxpayer Identification Number [REDACTED]	Return Form No.: 1040A
		Person with whom examination changes were discussed.	Name and Title:
1. Adjustments to Income	Period End 12/31/2003	Period End	Period End
a.			
b.			
c.			
d.			
e.			
f.			
g.			
h.			
i.			
j.			
k.			
l.			
m.			
n.			
o.			
p.			
2. Total Adjustments	0.00		
3. Taxable Income Per Return or as Previously Adjusted	(9,701.00)		
4. Corrected Taxable Income	(9,701.00)		
Tax Method	TAX TABLE		
Filing Status	Head of Household		
5. Tax	0.00		
6. Additional Taxes / Alternative Minimum Tax			
7. Corrected Tax Liability	0.00		
8. Less a.			
Credits b.			
c.			
d.			
9. Balance (Line 7 less Lines 8a through 8d)	0.00		
10. Plus a.			
Other b.			
Taxes c.			
d.			
11. Total Corrected Tax Liability (Line 9 plus Lines 10a through 10d)	0.00		
12. Total Tax Shown on Return or as Previously Adjusted	0.00		
13. Adjustments to: a.			
b. Earned Income Credit	(2,570.00)		
c.			
14. Deficiency-Increase in Tax or (Overassessment-Decrease in Tax) (Line 11 less Line 12 adjusted by Lines 13a plus 13b)	2,570.00		
15. Adjustments to Prepayment Credits - Increase (Decrease)	2,570.00		
16. Balance Due or (Overpayment) - (Line 14 adjusted by Line 15) (Excluding interest and penalties)	0.00		

The Internal Revenue Service has agreements with state tax agencies under which information about federal tax, including increases or decreases, is exchanged with the states. If this change affects the amount of your state income tax, you should amend your state return by filing the necessary forms.

You may be subject to backup withholding if you underreport your interest, dividend, or patronage dividend income you earned and do not pay the required tax. The IRS may order backup withholding (withholding of a percentage of your dividend and/or interest income) if the tax remains unpaid after it has been assessed and four notices have been issued to you over a 120-day period.

Form 886-A (Rev. January 1994)886-A	EXPLANATION OF ITEMS		Schedule number or exhibit
Name of Taxpayer	Taxpayer Identification Number	Year/Period Ended	
BARBARA A LEWIS		2003	

Earned Income Credit

Tax Period	Per Return	Per Exam	Adjustment
2003	\$2,570.00	\$0.00	(\$2,570.00)

Your qualifying child is on another taxpayer tax return. If you and someone else have the same qualifying child, only the person with the higher adjusted gross income may be able to claim the credit.

Since you did not establish that you were entitled to the earned income credit, we disallowed it.

Frozen Refund

Tax Period	Per Return	Per Exam	Adjustment
2003	(\$2,570.00)	\$0.00	\$2,570.00

A portion or all of your overpayment is being withheld pending the outcome of this examination. If at the conclusion of the examination a deficiency is determined the overpayment will be applied to the tax deficiency. If the overpayment is less than the deficiency, you will be sent a separate bill for any additional amount of tax owed. You may owe interest and/or penalties on the total amount of the tax deficiency. If there is any remaining overpayment it will be refunded if there are no other taxes that we are required to collect or other obligations owed. In order for your account to be properly adjusted, please sign and return the enclosed proposal.

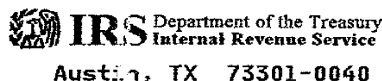
Name of Taxpayer: BARBARA A LEWIS
 Identification Number: [REDACTED]

08/27/2006
 Total 7.20.00

2003 - Taxable Earned Income Worksheet for Child Tax Credit/8812

- | | | |
|--|-----|----------|
| 1. Enter the amount from Form 1040, line 7 | 1. | 6,449.00 |
| Next , if you are filing Schedule C, C-EZ, F, or SE, or you received a Schedule K-1 (Form 1065 or Form 1065-B), go to line 2a. Otherwise, skip lines 2a through 2e and go to line 3. | | |
| 2. a. Enter any statutory employee income reported on line 1 of Schedule C or C-EZ | 2a. | 0.00 |
| b. Enter any net profit or (loss) from Schedule C, line 31; Schedule C-EZ, line 3; Schedule K-1 (Form 1065), line 15a (other than farming); and Schedule K-1 (Form 1065-B), box 9. Reduce this amount by any unreimbursed nonfarm partnership expenses you deducted on Schedule E. Do not include any statutory employee income or any other amounts exempt from self-employment tax. Options and commodities dealers must add any gain or subtract any loss (in the normal course of dealing in or trading section 1256 contracts) from section 1256 contracts or related property | | |
| | 2b. | 0.00 |
| c. Enter any net farm profit or (loss) from Schedule F, line 36, and from farm partnerships, Schedule K-1 (Form 1065), line 15a. Reduce this amount by any unreimbursed farm partnership expenses you deducted on Schedule E. Do not include any amounts exempt from self-employment tax | | |
| | 2c. | 0.00 |
| d. If you used the farm optional method to figure net earnings from self-employment, enter the amount from Schedule SE, Section B, line 15. Otherwise, skip this line and enter on line 2e the amount from line 2c | | |
| | 2d. | |
| e. If line 2c is a profit, enter the smaller of line 2c or line 2d. If line 2c is a (loss), enter the (loss) from line 2c. | | |
| | 2e. | 0.00 |
| 3. Add lines 1, 2a, 2b, and 2e. If zero or less, stop . Do not complete the rest of this worksheet. Instead, enter -0- on line 2 of the <i>Line 13 Worksheet</i> on page 6 or line 4 of Form 8812, whichever applies | 3. | 6,449.00 |
| 4. Enter any amount included on line 1 that is: | | |
| a. A scholarship or fellowship grant not reported on Form W-2 | 4a. | 0.00 |
| b. For work done while an inmate in a penal institution (enter "PRI" and this amount on the dotted line next to line 7 of Form 1040) | 4b. | 0.00 |
| c. A pension or annuity from a nonqualified deferred compensation plan or a nongovernmental section 457 plan (enter "DFC" and this amount on the dotted line next to line 7 of Form 1040). This amount may be shown in box 11 of your Form W-2. If you received such an amount but box 11 is blank, contact your employer for the amount received as a pension or annuity. | | |
| | 4c. | 0.00 |
| 5. a. Enter any amount included on line 3 that is also included on Form 2555, line 41, or Form 2555-EZ, line 18. Do not include any amount that is also included on line 4a, 4b, or 4c above. | | |
| | 5a. | 0.00 |
| b. Enter the amount, if any, from Form 2555, line 42, that is also deducted on Schedule C, C-EZ, or F, or included on Schedule E in partnership net income or (loss) | | |
| | 5b. | 0.00 |
| c. Subtract line 5b from line 5a | | |
| | 5c. | 0.00 |
| 6. Enter the amount from Form 1040, line 28 | 6. | 0.00 |
| 7. Add lines 4a through 4c, 5c, and 6 | 7. | 0.00 |
| 8. Subtract line 7 from line 3 | 8. | 6,449.00 |
- If you were sent here from the *Line 13 Worksheet* on page 6, enter this amount on line 2 of that worksheet.
 - If you were sent here from Form 8812, enter this amount on line 4 of that form.

REVERSE 8



EXM00

WI

Letter Number: 3219(SC/CG)
Letter Date: September 15, 2006

Taxpayer Identification Number:

7183 6247 9815 2088 9356

Tax Form: 1040

Tax Year Ended and Deficiency

DECEMBER 31, 2003 \$2,570.00

Contact Person:

CORRESPONDENCE EXAM TECHNICIAN

Contact Telephone Number:

1 866-897-0177
(TOLL FREE NUMBER)

Hours to Call:

8:00 AM TO 8:00 PM M - F

Last Date to Petition Tax Court:

December 14, 2006

Penalties/Additions to Tax

BARBARA A LEWIS
XJAMES M SIZEMORE JR
792 COMMERCE DR STE 104
ALEXANDER CITY, AL 35010-4213524

Dear Taxpayer:

We have determined that there is a deficiency (increase) in your income tax as shown above. This letter is your NOTICE OF DEFICIENCY, as required by law. The enclosed statement shows how we figured the deficiency.

If you want to contest this determination in court before making any payment, you have until the **Last Date to Petition Tax Court** (90 days from the date of this letter or 150 days if the letter is addressed to you outside the United States) to file a petition with the United States Tax Court for a redetermination of the amount of your tax. You can get a petition form and the rules for filing a petition from the Tax Court. You should file the petition with the **United States Tax Court, 400 Second Street NW, Washington D.C. 20217**. Attach a copy of this letter to the petition.

The time in which you must file a petition with the court (90 days or 150 days as the case may be) is fixed by law and the Court cannot consider your case if the petition is filed late. As required by law, separate notices are sent to spouses. If this letter is addressed to both a husband and wife, and both want to petition the Tax Court, both must sign the petition or each must file a separate, signed petition.

The Tax Court has a simplified procedure for small tax cases when the amount in dispute is \$50,000 or less for any one tax year. You can also get information about this procedure, as well as a petition form you can use, by writing to the Clerk of the United States Tax Court at 400 Second Street, NW, Washington, D.C. 20217. You should write promptly if you intend to file a petition with the Tax Court.

If you decide *not* to file a petition with the Tax Court, please sign and return the enclosed waiver form to us. This will permit us to assess the deficiency quickly and will limit the accumulation of interest. We've enclosed an envelope you can use. If you decide not to sign and return the waiver and you do not petition the Tax Court, the law requires us to assess and bill you for the deficiency after 90 days from the date of this letter (150 days if this letter is addressed to you outside the United States).

If you have questions about this letter, you may call the Contact Person whose name and telephone number are shown in the heading of this letter. If this number is outside your local calling area, there will be a long distance charge to you. If you prefer, you can call the Internal Revenue Service (IRS) telephone number in your local directory. An IRS employee there may be able to help you, but the office at the address shown on this letter is most familiar with your case.

When you send information we requested or if you write to us about this letter, please provide a telephone number and the best time to call you if we need more information. Please attach this letter to your correspondence to help us identify your case. Keep the copy for your records.

The person whose name and telephone number are shown in the heading of this letter can access your tax information and help get you answers. You also have the right to contact the Taxpayer Advocate. You can call 1-877-777-4778 and ask for Taxpayer Advocate Assistance. Or you can contact the Taxpayer Advocate for the IRS Office that issued this Notice of Deficiency by calling 1-512-460-8300 or writing to:

AUSTIN SERVICE CENTER
TAXPAYER ADVOCATE
P.O. BOX 934, STOP 1005-AUSC
AUSTIN, TX 78767

Taxpayer Advocate assistance is not a substitute for established IRS procedures such as the formal appeals process. The Taxpayer Advocate is not able to reverse legally correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

Thank you for your cooperation.

Sincerely yours,

Commissioner
By



R. Auby
COMPLIANCE CENTER
Austin Service Center

Enclosures:
Copy of this letter
Waiver
Envelope

REVERSE 5

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

Barbara S. LEWIS

Plaintiff

v.

UNITED STATES of America

Defendant

)
)
)
)
)
)
)
)
)
)

Case No. 2:07-cv-18 MHT

Demand for Jury Trial

AFFIDAVIT

Comes now James M. Sizemore, Jr., who is known to me and who,
being first duly sworn, deposes and says:


1. My name is James M. Sizemore, Jr., and I am over 19 years of age and
qualified to testify in court to the matters stated herein.

2. I make this affidavit in support of a Motion for Summary Judgment that I
filed on behalf of the Plaintiff Barbara Lewis.

3. I examined her tax return for 2003 for the purpose of determining the
accuracy of the calculations by which she sought an earned income tax credit in the
amount of \$2,570.

4. Based upon the IRS instructions for tax year 2003, and using the EIC
credit table, Ms. Lewis' earned income credit is properly calculated as being

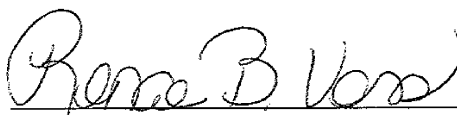
\$2,570 based on earnings of \$6,449 and assuming that she qualifies for earned income credit with two qualifying children. I attach a copy of the IRS EIC table contained on pages 51 and 52 of its instructions.


JAMES M. SIZEMORE, JR., Affiant

STATE OF ALABAMA)
 :
TALLAPOOSA COUNTY)

Before me, the undersigned notary public, personally appeared James M. Sizemore, Jr., who is known to me, and who, being first duly sworn, deposes and says that the facts contained in the foregoing affidavit are true and correct.

DONE this 10th day of April, 2007.



Notary Public
My commission expires: MY COMMISSION EXPIRES
NOVEMBER 22, 2011.

2003 Earned Income Credit (EIC) Table

Caution. This is not a tax table.

1. To find your credit, read down the "At least - But less than" columns and find the line that includes the amount you were told to look up from your EIC Worksheet.

2. Then, go to the column that includes your filing status and the number of qualifying children you have. Enter the credit from that column on your EIC Worksheet.

Example. If your filing status is single, you have one qualifying child, and the amount you are looking up from your EIC Worksheet is \$2,455, you would enter \$842.

If the amount you are looking up from the worksheet is—		And your filing status is— Single, head of household, or qualifying widow(er) and you have—		
At least	But less than	No children	One child	Two children
2,400	2,450	186	825	970
2,450	2,500	189	842	990

If the amount you are looking up from the worksheet is—		And your filing status is— Single, head of household, or qualifying widow(er) and you have—			If the amount you are looking up from the worksheet is—		And your filing status is— Single, head of household, or qualifying widow(er) and you have—		
		No children	One child	Two children			No children	One child	Two children
At least	But less than	Your credit is—			At least	But less than	Your credit is—		
\$1	\$50	\$2	\$9	\$10	3,000	3,050	231	1,029	1,210
50	100	6	26	30	3,050	3,100	235	1,046	1,230
100	150	10	43	50	3,100	3,150	239	1,063	1,250
150	200	13	60	70	3,150	3,200	243	1,080	1,270
200	250	17	77	90	3,200	3,250	247	1,097	1,290
250	300	21	94	110	3,250	3,300	251	1,114	1,310
300	350	25	111	130	3,300	3,350	254	1,131	1,330
350	400	29	128	150	3,350	3,400	258	1,148	1,350
400	450	33	145	170	3,400	3,450	262	1,165	1,370
450	500	36	162	190	3,450	3,500	266	1,182	1,390
500	550	40	179	210	3,500	3,550	270	1,199	1,410
550	600	44	196	230	3,550	3,600	273	1,216	1,430
600	650	48	213	250	3,600	3,650	277	1,233	1,450
650	700	52	230	270	3,650	3,700	281	1,250	1,470
700	750	55	247	290	3,700	3,750	285	1,267	1,490
750	800	59	264	310	3,750	3,800	289	1,284	1,510
800	850	63	281	330	3,800	3,850	293	1,301	1,530
850	900	67	298	350	3,850	3,900	296	1,318	1,550
900	950	71	315	370	3,900	3,950	300	1,335	1,570
950	1,000	75	332	390	3,950	4,000	304	1,352	1,590
1,000	1,050	78	349	410	4,000	4,050	308	1,369	1,610
1,050	1,100	82	366	430	4,050	4,100	312	1,386	1,630
1,100	1,150	86	383	450	4,100	4,150	316	1,403	1,650
1,150	1,200	90	400	470	4,150	4,200	319	1,420	1,670
1,200	1,250	94	417	490	4,200	4,250	323	1,437	1,690
1,250	1,300	98	434	510	4,250	4,300	327	1,454	1,710
1,300	1,350	101	451	530	4,300	4,350	331	1,471	1,730
1,350	1,400	105	468	550	4,350	4,400	335	1,488	1,750
1,400	1,450	109	485	570	4,400	4,450	339	1,505	1,770
1,450	1,500	113	502	590	4,450	4,500	342	1,522	1,790
1,500	1,550	117	519	610	4,500	4,550	346	1,539	1,810
1,550	1,600	120	536	630	4,550	4,600	350	1,556	1,830
1,600	1,650	124	553	650	4,600	4,650	354	1,573	1,850
1,650	1,700	128	570	670	4,650	4,700	358	1,590	1,870
1,700	1,750	132	587	690	4,700	4,750	361	1,607	1,890
1,750	1,800	136	604	710	4,750	4,800	365	1,624	1,910
1,800	1,850	140	621	730	4,800	4,850	369	1,641	1,930
1,850	1,900	143	638	750	4,850	4,900	373	1,658	1,950
1,900	1,950	147	655	770	4,900	4,950	377	1,675	1,970
1,950	2,000	151	672	790	4,950	5,000	382	1,692	1,990
2,000	2,050	155	689	810	5,000	5,050	382	1,709	2,010
2,050	2,100	159	706	830	5,050	5,100	382	1,726	2,030
2,100	2,150	163	723	850	5,100	5,150	382	1,743	2,050
2,150	2,200	166	740	870	5,150	5,200	382	1,760	2,070
2,200	2,250	170	757	890	5,200	5,250	382	1,777	2,090
2,250	2,300	174	774	910	5,250	5,300	382	1,794	2,110
2,300	2,350	178	791	930	5,300	5,350	382	1,811	2,130
2,350	2,400	182	808	950	5,350	5,400	382	1,828	2,150
2,400	2,450	186	825	970	5,400	5,450	382	1,845	2,170
2,450	2,500	189	842	990	5,450	5,500	382	1,862	2,190
2,500	2,550	193	859	1,010	5,500	5,550	382	1,879	2,210
2,550	2,600	197	876	1,030	5,550	5,600	382	1,896	2,230
2,600	2,650	201	893	1,050	5,600	5,650	382	1,913	2,250
2,650	2,700	205	910	1,070	5,650	5,700	382	1,930	2,270
2,700	2,750	208	927	1,090	5,700	5,750	382	1,947	2,290
2,750	2,800	212	944	1,110	5,750	5,800	382	1,964	2,310
2,800	2,850	216	961	1,130	5,800	5,850	382	1,981	2,330
2,850	2,900	220	978	1,150	5,850	5,900	382	1,998	2,350
2,900	2,950	224	995	1,170	5,900	5,950	382	2,015	2,370
2,950	3,000	228	1,012	1,190	5,950	6,000	382	2,032	2,390

(Continued on page 52)

2003 Earned Income Credit (EIC) Table—Continued**(Caution. This is not a tax table.)**

If the amount you are looking up from the worksheet is—		And your filing status is—						If the amount you are looking up from the worksheet is—		And your filing status is—					
		Single, head of household, or qualifying widow(er) and you have—			Married filing jointly and you have—					Single, head of household, or qualifying widow(er) and you have—			Married filing jointly and you have—		
		No children	One child	Two children	No children	One child	Two children			No children	One child	Two children	No children	One child	Two children
At least	But less than	Your credit is—			Your credit is—			At least	But less than	Your credit is—			Your credit is—		
6,000	6,050	382	2,049	2,410	382	2,049	2,410	9,500	9,550	130	2,547	3,810	207	2,547	3,810
6,050	6,100	382	2,066	2,430	382	2,066	2,430	9,550	9,600	127	2,547	3,830	203	2,547	3,830
6,100	6,150	382	2,083	2,450	382	2,083	2,450	9,600	9,650	123	2,547	3,850	199	2,547	3,850
6,150	6,200	382	2,100	2,470	382	2,100	2,470	9,650	9,700	119	2,547	3,870	195	2,547	3,870
6,200	6,250	382	2,117	2,490	382	2,117	2,490	9,700	9,750	115	2,547	3,890	192	2,547	3,890
6,250	6,300	379	2,134	2,510	382	2,134	2,510	9,750	9,800	111	2,547	3,910	188	2,547	3,910
6,300	6,350	375	2,151	2,530	382	2,151	2,530	9,800	9,850	107	2,547	3,930	184	2,547	3,930
6,350	6,400	371	2,168	2,550	382	2,168	2,550	9,850	9,900	104	2,547	3,950	180	2,547	3,950
6,400	6,450	368	2,185	2,570	382	2,185	2,570	9,900	9,950	100	2,547	3,970	176	2,547	3,970
6,450	6,500	364	2,202	2,590	382	2,202	2,590	9,950	10,000	96	2,547	3,990	173	2,547	3,990
6,500	6,550	360	2,219	2,610	382	2,219	2,610	10,000	10,050	92	2,547	4,010	169	2,547	4,010
6,550	6,600	356	2,236	2,630	382	2,236	2,630	10,050	10,100	88	2,547	4,030	165	2,547	4,030
6,600	6,650	352	2,253	2,650	382	2,253	2,650	10,100	10,150	85	2,547	4,050	161	2,547	4,050
6,650	6,700	348	2,270	2,670	382	2,270	2,670	10,150	10,200	81	2,547	4,070	157	2,547	4,070
6,700	6,750	345	2,287	2,690	382	2,287	2,690	10,200	10,250	77	2,547	4,090	153	2,547	4,090
6,750	6,800	341	2,304	2,710	382	2,304	2,710	10,250	10,300	73	2,547	4,110	150	2,547	4,110
6,800	6,850	337	2,321	2,730	382	2,321	2,730	10,300	10,350	69	2,547	4,130	146	2,547	4,130
6,850	6,900	333	2,338	2,750	382	2,338	2,750	10,350	10,400	65	2,547	4,150	142	2,547	4,150
6,900	6,950	329	2,355	2,770	382	2,355	2,770	10,400	10,450	62	2,547	4,170	138	2,547	4,170
6,950	7,000	326	2,372	2,790	382	2,372	2,790	10,450	10,500	58	2,547	4,190	134	2,547	4,190
7,000	7,050	322	2,389	2,810	382	2,389	2,810	10,500	10,550	54	2,547	4,204	130	2,547	4,204
7,050	7,100	318	2,406	2,830	382	2,406	2,830	10,550	10,600	50	2,547	4,204	127	2,547	4,204
7,100	7,150	314	2,423	2,850	382	2,423	2,850	10,600	10,650	46	2,547	4,204	123	2,547	4,204
7,150	7,200	310	2,440	2,870	382	2,440	2,870	10,650	10,700	42	2,547	4,204	119	2,547	4,204
7,200	7,250	306	2,457	2,890	382	2,457	2,890	10,700	10,750	39	2,547	4,204	115	2,547	4,204
7,250	7,300	303	2,474	2,910	379	2,474	2,910	10,750	10,800	35	2,547	4,204	111	2,547	4,204
7,300	7,350	299	2,491	2,930	375	2,491	2,930	10,800	10,850	31	2,547	4,204	107	2,547	4,204
7,350	7,400	295	2,508	2,950	371	2,508	2,950	10,850	10,900	27	2,547	4,204	104	2,547	4,204
7,400	7,450	291	2,525	2,970	368	2,525	2,970	10,900	10,950	23	2,547	4,204	100	2,547	4,204
7,450	7,500	287	2,542	2,990	364	2,542	2,990	10,950	11,000	20	2,547	4,204	96	2,547	4,204
7,500	7,550	283	2,547	3,010	360	2,547	3,010	11,000	11,050	16	2,547	4,204	92	2,547	4,204
7,550	7,600	280	2,547	3,030	356	2,547	3,030	11,050	11,100	12	2,547	4,204	88	2,547	4,204
7,600	7,650	276	2,547	3,050	352	2,547	3,050	11,100	11,150	8	2,547	4,204	85	2,547	4,204
7,650	7,700	272	2,547	3,070	348	2,547	3,070	11,150	11,200	4	2,547	4,204	81	2,547	4,204
7,700	7,750	268	2,547	3,090	345	2,547	3,090	11,200	11,250	*	2,547	4,204	77	2,547	4,204
7,750	7,800	264	2,547	3,110	341	2,547	3,110	11,250	11,300	0	2,547	4,204	73	2,547	4,204
7,800	7,850	260	2,547	3,130	337	2,547	3,130	11,300	11,350	0	2,547	4,204	69	2,547	4,204
7,850	7,900	257	2,547	3,150	333	2,547	3,150	11,350	11,400	0	2,547	4,204	65	2,547	4,204
7,900	7,950	253	2,547	3,170	329	2,547	3,170	11,400	11,450	0	2,547	4,204	62	2,547	4,204
7,950	8,000	249	2,547	3,190	326	2,547	3,190	11,450	11,500	0	2,547	4,204	58	2,547	4,204
8,000	8,050	245	2,547	3,210	322	2,547	3,210	11,500	11,550	0	2,547	4,204	54	2,547	4,204
8,050	8,100	241	2,547	3,230	318	2,547	3,230	11,550	11,600	0	2,547	4,204	50	2,547	4,204
8,100	8,150	238	2,547	3,250	314	2,547	3,250	11,600	11,650	0	2,547	4,204	46	2,547	4,204
8,150	8,200	234	2,547	3,270	310	2,547	3,270	11,650	11,700	0	2,547	4,204	42	2,547	4,204
8,200	8,250	230	2,547	3,290	306	2,547	3,290	11,700	11,750	0	2,547	4,204	39	2,547	4,204
8,250	8,300	226	2,547	3,310	303	2,547	3,310	11,750	11,800	0	2,547	4,204	35	2,547	4,204
8,300	8,350	222	2,547	3,330	299	2,547	3,330	11,800	11,850	0	2,547	4,204	31	2,547	4,204
8,350	8,400	218	2,547	3,350	295	2,547	3,350	11,850	11,900	0	2,547	4,204	27	2,547	4,204
8,400	8,450	215	2,547	3,370	291	2,547	3,370	11,900	11,950	0	2,547	4,204	23	2,547	4,204
8,450	8,500	211	2,547	3,390	287	2,547	3,390	11,950	12,000	0	2,547	4,204	20	2,547	4,204
8,500	8,550	207	2,547	3,410	283	2,547	3,410	12,000	12,050	0	2,547	4,204	16	2,547	4,204
8,550	8,600	203	2,547	3,430	280	2,547	3,430	12,050	12,100	0	2,547	4,204	12	2,547	4,204
8,600	8,650	199	2,547	3,450	276	2,547	3,450	12,100	12,150	0	2,547	4,204	8	2,547	4,204
8,650	8,700	195	2,547	3,470	272	2,547	3,470	12,150	12,200	0	2,547	4,204	4	2,547	4,204
8,700	8,750	192	2,547	3,490	268	2,547	3,490	12,200	12,250	0	2,547	4,204	*	2,547	4,204
8,750	8,800	188	2,547	3,510	264	2,547	3,510	12,250	13,750	0	2,547	4,204	0	2,547	4,204
8,800	8,850	184	2,547	3,530	260	2,547	3,530	13,750	13,800	0	2,539	4,195	0	2,547	4,204
8,850	8,900	180	2,547	3,550	257	2,547	3,550	13,800	13,850	0	2,531	4,184	0	2,547	4,204
8,900	8,950	176	2,547	3,570	253	2,547	3,570	13,850	13,900	0	2,523	4,173	0	2,547	4,204
8,950	9,000	173	2,547	3,590	249	2,547	3,590	13,900	13,950	0	2,515	4,163	0	2,547	4,204
9,000	9,050	169	2,547	3,610	245	2,547	3,610	13,950	14,000	0	2,507	4,152	0	2,547	4,204
9,050	9,100	165	2,547	3,630	241	2,547	3,630	14,000	14,050	0	2,499	4,142	0	2,547	4,204
9,100	9,150	161	2,547	3,650	238	2,547	3,650	14,050	14,100	0	2,491	4,131	0	2,547	4,204
9,150	9,200	157	2,547	3,670	234	2,547	3,670	14,100	14,150	0	2,483	4,121	0	2,547	4,204
9,200	9,250	153	2,547	3,690	230	2,547	3,690	14,150	14,200	0	2,475	4,110	0	2,547	4,204
9,250	9,300	150	2,547	3,710	226	2,547	3,710	14,200	14,250	0	2,467	4,100	0	2,547	4,204
9,300	9,350	146	2,547	3,730	222	2,547	3,730	14,250	14,300	0	2,460	4,089	0	2,547	4,204
9,350	9,400	142	2,547	3,750	218	2,547	3,750	14,300	14,350	0	2,452	4,079	0	2,547	4,204
9,400	9,450	138	2,547	3,770	215	2,547	3,770	14,350	14,400	0	2,444	4,068	0	2,547	4,204
9,450	9,500	134	2,547	3,790	211	2,547	3,790	14,400	14,450	0	2,436	4,058	0	2,547	4,204

*If the amount you are looking up from the worksheet is at least \$11,200 (\$12,200 if married filing jointly) but less than \$11,230 (\$12,230 if married filing jointly), your credit is \$1. Otherwise, you cannot take the credit.

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